

## ARMY CLAIMS POLICY ON PRIVATE INSURANCE

1. Soldiers are no longer **required** to file a claim against their private insurance policy before they can be paid under the Personnel Claims Act, **IF** their claim is for personal property that was lost or damaged while being shipped or stored at government expense. (See paragraphs 11-8 in DA Pam 27-172)

a. On claims for loss or damage in shipment or storage, the Army can usually recover from a carrier or warehouse most of the amount that we pay to a claimant. Therefore, claimants will have an option on those types of claims. They may still file a claim with their private insurance company, if they want to do so. But they will not be required to do so by the Army claims policy. If they elect not to file with their private insurance, but file their entire claims directly with the Army, the Army claims system will pay even for items that would have been covered by the private insurance.

b. They should still note on the DD Form 1842 whether or not they have private insurance that covers all or part of their loss. But they must write in the bottom of block 10, "I elect not to file with private insurance."

2. On all other types of claims under the Personnel Claims Act, such as claims for loss due to theft, vandalism, unusual occurrence, or losses in quarters, the soldier will still have to file a claim against any private insurance policy that covers all or part of the loss. See paragraphs 11-11f (1), and 11-21a(2), AR 27-20 for discussion of actions to take if a claimant refuses to disclose insurance information or fails to make a timely claim against a private insurance policy.

3. There are several reasons for this change

a. It will save the Army some administrative costs and will not cost the Army a significant amount of additional money. On claims for transit or storage loss and damage, we can usually recover the full amount of the loss and damage from the responsible carrier or warehouse. When private insurance paid for part of the loss, the Army would include in its recovery claim the amount paid by the private insurance company. Then, when we completed recovery from the carrier, we would repay the private insurer a pro rata share of the amount that we recovered. To the extent that soldiers elect not to file with their private insurance, we will not have to do the pro rata distribution.

b. It will simplify the claims process for soldiers. Typically, private insurance policies that cover property while it is in shipment or storage only pay for items that were lost or destroyed. Private insurance usually does not pay to repair damaged items. Therefore, soldiers have usually had to file with both their private insurance and the Army claims system to be fully compensated for their loss.

c. Most property and casualty insurance companies will consider the frequency of claims filed by a person in deciding whether to insure or renew an insurance policy. In recent years, because of lower earnings from investments, many insurance companies are being more strict about who they insure. (See USAA's 2002 Annual Report to Members, page 10). There have been reports that some soldiers have been denied new insurance policies because they have filed "too many" claims, some of which were claims for loss or damage to their goods while being shipped by the Army.

4. Although filing with private insurance is now optional on claims for loss or damage to goods in storage or transit, soldier may still want to file with their private insurance BEFORE they file with the Army. However, these reasons may well not apply if their property was shipped under the Full Replacement Value (FRV) program or the Defense Personal Property Program (DP3), in which cases they can receive full replacement value from the Transportation Service Provider (TSP) for lost or destroyed items.

a. They have paid premiums over the years for the coverage and may not have filed many claims before.

b. Private insurance policies, especially if they have a full replacement value endorsement, may pay more for a lost item than the Army will pay.

c. The loss may be significant, and the Army will not be able to pay the full amount of the loss. The Army has limits on both the total amount that it can pay under the Personnel Claims Act, and on the maximum amount that it will pay for many items, such as jewelry, furniture and works of art. The Army will usually not pay more than \$40,000 on a claim, although we can pay up to \$100,000 if the loss occurs under extraordinary circumstances.

d. Often the amount of substantiating paperwork that an insurance company requires is less than what the Army requires.

5. When a soldier files a claim with the Army, the claim form requires the soldier to assign or transfer to the Army his or her right to file any claim for the loss. Therefore, AFTER a soldier has filed a claim with the Army under the Personnel Claims Act, they generally do not have the right to file against their insurance.

6. Soldiers are generally not entitled to file a claim with and receive payment from both the Army and their insurance company for the same item. If a soldier elects not to file with their insurance, but files with the Army and then is paid by the Army, the soldier may not seek unjust enrichment by filing a claim for the same item with their insurance company. Insurance companies who pay soldiers for goods that are lost or destroyed in government funded shipments will notify the Army claims system of their payment so that we may recover from the carrier for them. Therefore, the Army will know if a soldier is paid for an item by both the Army and an insurance company. Filing a claim for the same item with both the Army and a private insurer can have serious adverse consequences for a claimant. The exception, of course, is the case where a soldier files

against private insurance for lost items, is paid by the insurance company but then has a deductible limit in the policy applied to the payment. In those cases, the soldier may file with the Army for the difference, if any, between what the insurance company paid and what we would have paid on the item.

7. Attached is an instruction sheet that should be used to advise claimants of this new policy. Please insure that it is incorporated into your offices claims instructions, both printed and on line, and into your intake and adjudication SOP's.

## ARMY CLAIMS POLICY ON PRIVATE INSURANCE

1. If you have a private insurance policy that may cover all or part of your loss, you **DO NOT HAVE TO FILE** with your private insurance company before you can be paid by the Army, IF your claim is for a loss or damage to your personal property while it was being transported or stored at government expense. This policy is limited to this type of claim, because we can usually recover the amount paid to the claimant from the carrier or warehouse that is responsible for the loss or damage.

2. On all other types of claims for loss or damage incident to service (e.g. theft, vandalism, loss in quarters), you **MUST FILE** with your private insurance before you can be paid by the Army. If you do not file with your private insurance for these types of losses, you will not be paid by the Army for any item for which your private insurance might have paid.

3. **You may not be paid by both the Army and your private insurance company for the same item.** This would be unjust enrichment and possibly fraud.

a. When you file a claim with the Army, you assign (i.e. transfer) your right to seek payment from anyone for any items that are on your Army claim. You also must tell the Army, under penalty of perjury, whether you have filed a claim with a private insurance company. If you have filed a claim with your private insurance company, you will have to tell us how much the insurance company paid and for which items they paid.

c. If you are paid for an item by the Army and then file with the insurance company, the insurance company may pay you, but the Army will learn about this second payment. Insurance companies, after paying claims for goods lost during government shipments or storage, report to the Army what they have paid so that the Army can recover that amount from the responsible carrier or warehouse on their behalf. If you have received compensation from your insurer after you have been compensated by the Army, the Army will conduct a review of your claim to determine whether you should reimburse the Army for any portion of your claim. If the review shows that a reimbursement is due, the Army will initiate actions to collect those funds.

4. If you elect not to file against your private insurance, then you generally will have to accept the settlement of your claim with the Army as your full compensation. Therefore, if you are in any doubt as to the best way to proceed, you should file and settle a claim with your insurance company first, for the items that are covered by your policy, and then file your claim with the Army for the remaining items.

5. **Why would you file with your private insurance, if you do not have to?**

a. If you have a catastrophic loss, it is possible that you will not be fully compensated by the Army. There are limits on both the total amount that the Army can pay (\$40,000 in most cases) and limits on how much we will pay for most types of property. For

example, the Army will usually not pay more than \$3,000 for any item of furniture or more than \$4,000 for any computer, its software, and accessory equipment. However, you should check your insurance policy for similar limits imposed by your insurance company.

b. Your private insurance may pay you more than the Army will pay, especially if your policy includes a provision or endorsement that requires the insurance company to pay full replacement value (i.e. new-for-old) rather than the fair market (i.e. depreciated) replacement value.

c. In addition, your private insurance may pay for items for which the Army will not pay you. For example, we will not pay for items that are purchased or used for a private business. We will try and recover for those items from the carrier, and, if successful, we will send that amount to you. But this may take several months. If these items are covered by your insurance policy, you will probably receive payment faster from your insurance company.

d. Your insurance company may not require the same number of estimates or the same amount of substantiation that the Army requires you to submit with your claim.

## **6. Why not file with private insurance first?**

a. Most insurance policies that cover goods in transportation or storage pay only for lost or destroyed items. They usually do not pay for repair of damaged items. Therefore, if you have both lost and damaged items, you would have to file two claims, one with your insurance and one with the Army, to be fully compensated. It may be easier and faster just to file a single claim with the Army, if you are willing to accept the depreciated replacement cost for lost or destroyed items.

b. While insurance companies may not raise your rates merely because you file a single claim, they do consider how often you have filed claims in the past few years when deciding whether to renew a policy or to issue you a new policy. Each insurance company may use different criteria, but it has been reported to the Army that some will refuse to insure someone who has filed three claims in the past two years. Most property insurers submit their claims information to a central data base, which is shared with other companies. So each insurance company will know about claims submitted to other companies. Army claims information is not submitted to this central data base and a claim submitted to the Army should not be considered by private insurance companies.

c. If your loss is relatively small or is only for a few damaged items, you usually will be adequately paid by the Army. Insurance coverage should be used to pay for relatively large losses that are not likely to be paid in full by the Army.

## **7. Frequently Asked Questions.**

**Q.** If I file a claim with my insurance company first, and they do not pay me for an item, can I then file a claim with the Army for that item?

**A.** Yes. Although we may also decide to deny payment for that item, you can file with the Army and ask the Army to evaluate payment for the item under our regulations.

**Q.** If I file with my insurance company first, and they pay me for an item but do not pay the full amount because of my deductible, can I file a claim for that deductible amount?

**A.** Yes. You can file a claim with the Army for that item, but the Army does not automatically pay a deductible. The Army claims adjudicator will determine what the Army would have paid for that item. If the amount we would have paid is more than the amount you actually received from your insurance company, then we will pay the difference between what you received and what we would have paid. But if we would have paid less than what you actually received, we will not make any additional payment. In this regard, we consider any amount that an insurance company holds back until you submit proof of actual purchase to be part of the amount that you actually received from the insurance company.

**Q.** If I file a claim with the Army, but the Army denies payment for an item, or if I am not happy with what the Army pays me, may I then file a claim with my private insurance company?

**A.** Usually not, although some exceptions may be made on a case by case basis. In those exceptional cases, the soldier would have to return any money paid by the Army on items that might have been paid by insurance, before the Army will release the claim back to the soldier. The purpose of giving soldiers the option of not filing with their insurance is to simplify the recovery process and limit the number of claims soldiers have to file against their insurance. Permitting soldiers to go back to their insurance companies after they are paid by the Army, would defeat the purpose of this new policy and would greatly complicate and delay resolution of a claim. Therefore, soldiers should carefully evaluate the nature and extent of their loss before they elect not to file a claim against their private insurance.

**Q.** Are claims that I file with the Army under the Personnel Claims Act considered by insurance companies as part of my claims history?

**A.** Insurance companies should not consider Army claims on the same basis as a claim against an insurance company, as the Army program is a gratuitous payment program and not an insurance program. We do not share our claims data with the insurance industry. If you file a claim with your private insurance company for loss or damage to your goods while in a government funded shipment, your insurance company will usually assume that you will be filing a claim with the Army. They will contact us and request that we recover from the carrier on their behalf. But if they want specific information about a person's claims history or a specific claim, they must provide us a written release from that person giving us permission to release that information. If an insurance company requests claims information under the Freedom of Information Act, we withhold the names and social security numbers of the claimants.